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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,237	12/21/2001	Yoshizo Honda	10830-084001	6666

26211 7590 10/22/2004
FISH & RICHARDSON P.C.
CITIGROUP CENTER 52ND FLOOR
153 EAST 53RD STREET
NEW YORK, NY 10022-4611

EXAMINER

CATHEY II, PATRICK H

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 10/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/032,237

Applicant(s)

HONDA, YOSHIKO

Examiner

Patrick H. Cathey II

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 6-15 and 20-27 is/are allowed.
- 6) ☐ Claim(s) 1-5 and 16-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim's 1-5 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwakiri et al. (US 5,509,020) in view of Isu et al. (US 6,697,433).

As for Claim's 1 and 16, Iwakiri et al. teaches communication on the basis of the CDMA system (Column 4, lines 44-46). This communication is continuously transmitted during the frame period of 20 ms of one frame at the known fixed rate of 9600 bps (Column 4, lines 60-62). This data is sent to the decoder unit (Column 5, lines 26-31; See also Figure 1). Iwakiri et al. teaches an error rate calculation unit that counts the number of errors (Column 5, lines 49-67). A path metric amount memory unit is described that memorizes path metric amounts of the known fixed data rate of the sync channel (Column 6, lines 3-7). A data rate decision unit describes the data rate having the largest possibility of being transmitted from all the data rates of the traffic channels. The decoded data memory unit then outputs the decoded data (Column 6, lines 13-20; See also Figure 1).

Although Iwakiri et al. fails to teach that the input data is in the form of MPEG encoded data, Isu et al. does (Column 6, lines 55-67). Since various forms of input encoded data could have been transmitted to the decoding method of this application, it

would have been obvious to one of ordinary skill to use MPEG data as opposed to CDMA data for the input data transmitted to the decoder.

Many of the limitations for the following claims have been address in the above rejections. As for Claim's 3-5 and 17-19, Iwakiri et al. teaches the product of the bit size, numbers of frames and the different quantized levels (Column 5, lines 4-19; See also Figure 2). The number of frames can be calculated from the time it takes divided by the length of the frame, which is 20 ms. Various bit sizes are also shown in this example.

Although Iwakiri et al. fails to specifically teach that these products are weighted, weighing these products would only add another variable to the product that was already used. Therefore, it would have been obvious to one of ordinary skill to weigh this product in order to get the intended different output of data.

As for Claim 2, it is well known that there can be errors in the transmission of MPEG data before it reaches the decoder. We can also assume that part of the reason for the inventions of Iwakiri et al. and Isu et al. is to take into effect transmission errors. Therefore, it would have been obvious to one of ordinary skill to take into effect the amount of errors that are involved in transmission. (Official Notice)

Allowable Subject Matter

Claim's 6-15 and 20-27 are allowed.

The following is an examiner's statement of reasons for allowance: Many of the limitations of Claim's 6 and 20 are not addressed in the references cited. Claim's 6 and

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20 show new subject matter that is not obvious. Claim's 7-15 and 21-27 are allowable dependent claims of the independent claim's 6 and 20 respectively.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The additional references not used in the above rejections were cited because they contain additional information regarding the counting of errors during decoding.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick H. Cathey II whose telephone number is (703) 305-4909. The examiner can normally be reached on M-F 7:30 to 5:00 (Every other friday off).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (703) 503-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patrick H. Cathey II
Examiner
Art Unit 2613

PHC


CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600